

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 12/5/2023
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LESLIE McMILLIN,

Plaintiff,

-against-

LYNN MADISON GALBRAITH,

Defendant.

23-CV-10266 (VEC)

ORDER OF SERVICE

VALERIE CAPRONI, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under Court's diversity of citizenship jurisdiction, alleging that Defendant sexually assaulted her. By order dated November 22, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendant Lynn Madison Galbraith through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

Process Receipt and Return form (“USM-285 form”) for Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to issue a summons for Defendant Lynn Madison Galbraith, complete the USM-285 forms with the addresses for Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: December 5, 2023
New York, New York



VALERIE CAPRONI
United States District Judge

DEFENDANT AND SERVICE ADDRESS

Lynn Madison Galbraith
2823 Providence Rd. #371
Charlotte, NC 28211